

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ANDERSON/GREENWOOD DIVISION

Terry Glenn Meeks, Jr.,	)	
	)	C/A No. 8:09-CV-3279-MBS
Plaintiff,	)	
	)	
vs.	)	
	)	<b>ORDER</b>
Larry W. Powers, et al.,	)	
	)	
Defendants.	)	
_____	)	

This matter comes before the court on the parties' motions for summary judgment. See Pl.'s Summ. J. Mot., ECF No. 19; Defs.' Resp. & Cross Summ. J. Mot., ECF No. 25. Plaintiff is a South Carolina State prisoner, currently in custody at the Evans Correctional Institution. On December 22, 2009, Plaintiff filed the instant civil rights action, alleging that while he was in custody at the Spartanburg County Detention facility, Defendants violated Plaintiff's due process rights and subjected him to cruel and unusual punishment. See Compl. 2, ECF No. 1.

In accordance with 28 U.S.C. § 636(b)(1) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Bruce Howe Hendricks for pretrial handling. Plaintiff filed a motion for summary judgment on March 12, 2010. ECF No. 19. Defendants sought an extension of time in which to file a response and their own dispositive motions, which the Magistrate Judge granted. See ECF Nos. 20, 22. Defendants filed their motion for summary judgment and response to Plaintiff's motion for summary judgment on April 26, 2010.<sup>1</sup> ECF No. 25. As required

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<sup>1</sup> In a previously-issued order, this court found that Defendants' papers were filed two days after the extended deadline that the Magistrate Judge had set pursuant to Defendants' request; however, because Plaintiff has not suffered any undue prejudice as a result and in the interest of deciding matters on their merits, the court agreed with the Magistrate Judge that it was appropriate to consider

by Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), the Magistrate Judge issued an order on April 27, 2010, advising Plaintiff of the summary judgment motion and dismissal procedures and the possible consequences if he failed to respond adequately. Roseboro Order, ECF No. 27. Plaintiff filed a response in opposition to Defendants' motion for summary judgment on June 18, 2010. ECF No. 39.

On October 7, 2010, the Magistrate Judge issued a Report and Recommendation (the "R&R"), recommending that Plaintiff's motion for summary judgment be denied, Defendants' motion for summary judgment be granted, and this matter be dismissed with prejudice. ECF No. 46. The R&R was mailed to Plaintiff, together with a notice advising him that any specific written objections must be filed with the court within fourteen days of the date of service of the R&R. ECF No. 46-1. That deadline has since passed and Plaintiff has not filed any objections to the R&R.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the R&R to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has carefully reviewed the record and agrees with the recommendation made by

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Defendants' papers. See Oct. 18, 2010 Order, ECF No. 49.

the Magistrate Judge. The court adopts the R&R and incorporates it herein by reference. Plaintiff's motion for summary judgment is **DENIED**; Defendants' motion for summary judgment is **GRANTED**; and this matter is **DISMISSED WITH PREJUDICE**.

**IT IS SO ORDERED.**

/s/ Margaret B. Seymour  
United States District Judge

Columbia, South Carolina  
November 17, 2010.